

1 IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
2 STATE OF MISSOURI

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4 CITY OF KIRKWOOD,
5 Plaintiff,

6 Vs. Cause Nos. 06CR-4926, 06CR-4927

7 CHARLES THORNTON,
8 Defendant.

9 =====

10 TRIAL TRANSCRIPT
11 February 23, 2007

12 On February 23, 2007, the above-entitled cause
13 came on for hearing before the Honorable Ellen Levy Siwak,
14 Judge of Division 38 of the St. Louis County Circuit Court.

15

16 THE HON. ELLEN LEVY SIWAK, Judge

17

18 A-P-P-E-A-R-A-N-C-E-S

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20 The City of Kirkwood was represented by Ms.
21 Brandy Barth, Esq.

22 The Defendant appeared Pro Se.

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25 Transcribed by Sally Peat, CCR

Exh. A

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T-R-I-A-L

This trial began on February 23, 2007, before the Hon. Ellen Levy Siwak, Judge of Division 38 of the Circuit Court of St. Louis County, State of Missouri, and without a jury. Continuing through and concluding February 23, 2007. Defendant was present at all in-court proceedings, unless otherwise indicated.

A-P-P-E-A-R-A-N-C-E-S

Brandy Barth appeared on behalf of the City of Kirkwood.

Charles Thornton appeared Pro Se.

THE COURT: We're doing both cases. They're different dates.

MS. BARTH: They're different dates. And we have three witnesses. So I'm going to take them through the first day and then take them to the second day. Their facts aren't altogether unsimilar so.

THE COURT: The first date and time of May 8th of '06, but that's the 4927 file, it's actually the second file --

MS. BARTH: May 18th.

THE COURT: Is this May 18th?

MS. BARTH: Um-hum.

THE COURT: It's hard to read on the ticket. Okay. So we'll do that date first.

1 The evidence will show that Mr. Thornton refused to
2 take his seat and Kirkwood Police Officer Ballman
3 intervened.

4 The evidence will show that instead of taking his
5 seat Mr. Thornton laid down in the middle of the chambers
6 in a passive position and refused to stand or get up and
7 take his seat. At this point Officer Ballman asked
8 Mr. Thornton to roll over. He would not comply. And at
9 this point he was arrested.

10 And Mr. Ballman will testify as to the difficulty
11 Mr. Thornton presented in trying to get him out of the
12 chambers in a disruptive behavior that he was exhibiting.

13 Based on this evidence the City of Kirkwood is
14 going to ask that the Judge sentence Mr. Thornton to jail
15 time. That's all I have.

16 THE COURT: On behalf of the Defendant do
17 you wish to make a brief opening, or reserve your opening?

18 MR. THORNTON: No, I'd like to make a
19 brief opening, Your Honor.

20 THE COURT: You may proceed.

21 DEFENDANT'S OPENING STATEMENT

22 MR. THORNTON: Thank you. Good morning.
23 And, Your Honor, you will hear an attempt to violate the
24 rights of free speech. You are also hear the reason of
25 this violation is to avoid dealing with the root of this

1 Q. Okay. And do you supervise all the departments of
2 the City of kirkwood?

3 A. All but the law department.

4 Q. Okay. And do you also attend all the city council
5 meetings?

6 A. Yes.

7 Q. Do you have voting power at the city council
8 meetings?

9 A. No, I do not.

10 Q. Okay. How long have you held that position?

11 A. Slightly over twenty-five years.

12 Q. Just for the City of Kirkwood?

13 A. Yes.

14 Q. Okay. And have you held any other positions, city
15 positions for other cities?

16 A. Prior to Kirkwood I was Assistant City Manager
17 Finance Director in the City of Webster Groves for seven
18 years. And then prior to that in various administrative
19 rolls in the City of University City for five years.

20 Q. Are you familiar with the Defendant Charles
21 Thornton?

22 A. I am.

23 Q. Can you explain how you're familiar with him?

24 A. I met Charles -- I call him Cookie, but Charles
25 when I first came with the city twenty-five years ago. He

1 was one of the -- a member of the business community, a
2 contractor, and just met him at various functions.

3 Q. And was he generally friendly to you and the city
4 in general?

5 A. Oh, yes, he -- in fact, he was -- he was always fun
6 to run into. Mr. Thornton always had a funny word or a
7 good greeting.

8 Q. And was he active in the community?

9 A. Yes, he was. He was involved effectively in our --
10 our development program and annexation of unincorporated
11 Meacham Park neighborhood and our TIFF projects. He served
12 on our local housing authority, and I believe some other
13 task forces, or commissions. I don't recall all the
14 details.

15 Q. And at some point did Mr. Thornton's attitude
16 toward the city and the council change?

17 A. It seemed to change, the best of my recollection,
18 about in the year 2000. There were altercations -- I
19 shouldn't say altercations, there are violation of city
20 codes that previously just hadn't existed, that we had to
21 deal with.

22 Q. And do you know what -- so you're saying that --
23 was Mr. Thornton cited by Kirkwood officials for violations
24 of ordinances?

25 A. Yes, he was.

1 Q. And do you know generally what those violations
2 arose from?

3 A. They generally were in the category of zoning
4 violations, parking construction vehicles in residential
5 areas, or areas that aren't approved for parking dump
6 trucks, et cetera; for dumping construction debris in areas
7 that were not permitted for that. Those types of
8 violations were prevalent.

9 He had a lot of his equipment, dump trucks and
10 tractors and things of that nature find their way into
11 various residential neighborhoods, and neighbors would
12 complain, and we'd ask him to move them, they weren't
13 moved, we'd cite him.

14 Q. Now, prior to this time do you know why
15 Mr. Thornton was not on the public works radar? Did he
16 have some other kind of -- did he have a change in his
17 business?

18 A. Well, I don't know all the details of his business.
19 I do know that up until about 2000 he had a -- was leasing
20 a business facility or building down on South Kirkwood
21 Road. And he left that and was -- he had a lot of
22 equipment parked behind that building, which was fine,
23 that's the place it should have been.

24 when he left that -- lost that lease for whatever
25 reason, that's when the problem seemed to arise.

1 Q. Okay. I'm going to show you what's been marked as
2 Kirkwood Exhibit A.

3 THE COURT: Does Mr. Thornton have a
4 copy?

5 MS. BARTH: Yes.

6 THE COURT: Thank you.

7 Q. (By Ms. Barth) Can you explain for the Judge what
8 that document is?

9 A. It's a judgment issued by Judge Crancer entering
10 judgments on appeals by Mr. Thornton on a variety of zoning
11 violations on which he had been found guilty in municipal
12 court.

13 MS. BARTH: Your Honor, can I approach?

14 THE COURT: Yes.

15 MS. BARTH: I think I might have given
16 you the wrong copy (inaudible).

17 THE COURT: Yeah.

18 MS. BARTH: Sorry. Sorry, I mixed up the
19 copies.

20 A. Okay.

21 Q. (By Ms. Barth) I'm going to hand you another
22 document that's been marked as Exhibit B. Can you describe
23 what that is?

24 A. Yes. It's a judgment issued by again Judge Crancer
25 for various finding -- finding in the city's favor appeals

1 from the circuit or from the city court on various zoning
2 and appears other code violations.

3 Q. And are these the municipal citations you were
4 referring to earlier that began in 2000?

5 A. Yes.

6 Q. Okay. And do you know as your -- in your job as
7 city administrator if Mr. Thornton has paid the City of
8 Kirkwood any of the fines owed under those judgments?

9 A. He has not.

10 Q. And do you know about how much money Mr. Thornton
11 owes the City of Kirkwood?

12 A. Not exactly. It's somewhere in excess of
13 \$15,000.00.

14 Q. Okay.

15 MS. BARTH: Judge, the City would move to
16 have the Court accept those as exhibits.

17 THE COURT: Be received.

18 Q. (By Ms. Barth) Do you know if Mr. Thornton has
19 appealed or sued the City of Kirkwood over the past five to
20 seven years?

21 A. On numerous occasions. He's appealed, best of my
22 recollection, every adverse ruling that he's received from
23 the municipal court. He's appealed it to the Circuit Court
24 and then state appellate court. In some cases it's
25 actually gone to the Missouri Supreme Court, but they

1 refused to hear it.

2 Q. And have you also sued them civilly, that you know
3 of?

4 A. Sued the City civilly?

5 Q. Yes, him as the plaintiff.

6 A. As the plaintiff. I don't have a recollection of
7 that right now.

8 Q. Okay. Do you know if Mr. Thornton has been
9 victorious in any of his lawsuits?

10 A. No, he has not.

11 Q. You said earlier that Mr. Thornton is a regular
12 attendee of the city council meetings; correct?

13 A. Yes, he's there frequently.

14 Q. How often does the city hold council meetings?

15 A. They're held on the 1st and 3rd Thursday evening of
16 each month at 7:00 p.m. at city hall on Kirkwood Road.

17 Q. And how often does Mr. Thornton attend city council
18 meetings?

19 A. Virtually every meeting, although there'll be
20 periods I suppose perhaps business travel or something he
21 may be gone for a block of time, maybe a month. But then
22 he begins appearing. And once he's back he attends every
23 council meeting that's held.

24 Q. Okay. And during public council meetings are
25 citizens given the opportunity to make comments?

1 A. Yes, there's actually three scenarios there. And
2 the first is if there's a public hearing that night like on
3 a rezoning, or some sort of development plan, at that
4 hearing all citizens have an opportunity to make comments
5 about or ask questions about the development.

6 The other opportunity that citizens have is to use
7 three minutes, if they have questions or comments about any
8 legislation that will be on the agenda later in that
9 evening.

10 And then the third opportunity that a resident or
11 anyone has is to make a three-minute statement to the city
12 council on any matter that's germane to municipal
13 government.

14 Q. And has the city always had a policy or some sort
15 of guidelines concerning citizens' comments during those
16 three times?

17 A. We've always -- in my twenty-five years we've
18 always had a policy that those comments are limited --
19 limited to three minutes. And the mayor makes that
20 announcement -- or made that announcement at the beginning
21 of each meeting.

22 Subsequently to avoid any possibility of confusion,
23 we've memorialized those into the document that spells out
24 the process of both public hearing and general comments.
25 And that's made available to the public as they come into

1 the council chamber.

2 Q. I'm going to show you what's been marked as
3 Kirkwood Exhibit C.

4 MS. BARTH: I'm handing the Defendant a
5 copy.

6 Q. (By Ms. Barth) Can you explain for the Court what
7 that is?

8 A. This is the document that was drafted by the city
9 council, formally adopted by the city council. And on one
10 side it discusses the procedures for public hearings which
11 are slightly different than the procedures for commenting
12 on pending legislation or general comments about city
13 government.

14 Q. And were those guidelines in effect on May 18th,
15 2006?

16 A. Yes, they were.

17 Q. Okay. Did -- generally speaking how long have
18 those guidelines been written?

19 A. The guidelines actually have gone through several
20 iterations make sure the wording has been clarified, but it
21 dates back to February, March of 2006.

22 Q. Okay.

23 A. But the actual procedure of three minutes and being
24 concise, et cetera, has been an unwritten rule for
25 twenty-five years.

1 Q. Okay. Are there -- you mention there were
2 three-minute time limits; correct?

3 A. That's correct.

4 Q. And are there also guidelines regarding the use of
5 display materials?

6 A. Yes, the latest procedures are that the displays,
7 presentations, the comments, are to the city council. That
8 the display material, if there is such, is displayed on an
9 easel facing the city council, and the microphone is next
10 to it.

11 Q. Are there any guidelines regarding the use of foul
12 or abusive language?

13 A. Yes. The guidelines are very specific. That
14 individuals making a presentation to the city council
15 should not use foul, abusive language. Essentially respect
16 the nature of the -- of the government meeting.

17 Q. And are the citizens warned they will be asked to
18 leave the podium and/or building if the citizens failed to
19 follow these guidelines?

20 A. Yes. The mayor will generally give someone one or
21 two warnings before they're asked to take their seat, to
22 make sure they understand the rules. And then if they
23 continue, they are asked to take their seat. And then
24 essentially removed if they refuse.

25 Q. And in the past five to seven years that we've been

1 talking about, has Mr. Thornton violated these policies?

2 A. Virtually at every attendance.

3 Q. And does he bring objects into the city council
4 meeting?

5 A. He brings in -- periodically he brings in a video
6 camera and sets it up in the rear of the council chamber
7 and directs it up at the podium. He also brings in
8 posters. He's brought in other items such as chunks of
9 asphalt and bales of hay to make one point or another.

10 But the posters are always there, or the -- his
11 most favorite poster, the one he brings most frequently I
12 guess I should say, is one of a donkey or a jackass,
13 depending on your nomenclature.

14 Q. Okay. And has he brought -- you say he's brought
15 asphalt, has he brought bananas in, too.

16 A. He's brought bananas, hay bales, asphalt, and he's
17 brought in a poster of -- and these are all fairly well
18 drawn, pencil drawings on three by five cardboard stock, of
19 the three monkeys sitting on a fence with hear no evil, see
20 no evil, speak no evil; the implication there.

21 Q. And can you describe for the Court what he accuses
22 the council members of, or do you understand what it is
23 he's accusing the council of when he comes in and makes
24 these comments?

25 A. Well, he -- he has an issue with our public works

1 Q. Okay. Mr. Brown, I'm going to turn your attention
2 to the events occurring on May 18th, 2006. Do you recall
3 those events?

4 A. Yes, I do.

5 Q. And was there a council meeting on that date?

6 A. Yes.

7 Q. Were there any public hearings held?

8 A. There were -- yes, there were two public hearings,
9 one dealing with an expansion at Bopp Chapel & Funeral Home
10 in Kirkwood on Manchester. And the other with a rather
11 sizeable expansion to the St. Agnes Home, which is a senior
12 living building in the City of Kirkwood.

13 Q. And during the Bopp Chapel presentation was the
14 floor open for citizen comments?

15 A. Yes, it was.

16 Q. And did any citizens come forward to speak?

17 A. Several did, including Mr. Thornton.

18 Q. And did -- in your memory did Mr. Thornton have any
19 display material?

20 A. He had -- to the best of my recollection he brought
21 up his picture of the donkey, or jackass as he calls it.

22 Q. Okay. And you testified that Mr. Thornton commonly
23 uses images of donkeys at council meetings; correct?

24 A. Yes. He virtually always does. Not virtually, he
25 does.

1 Q. And do you recall after Mr. Thornton put up his
2 display if he said anything to the council members?

3 A. Well, he -- I can't remember his exact words. He
4 generally, as I recall, started out putting his drawing of
5 the jackass on the easel, and then just starts a mantra of
6 saying jackass, jackass, jackass. And then he berates the
7 council at various times. I can't recall the just the
8 words he used that evening, but that the council is
9 corrupt. And for -- I can only assume for not pursuing his
10 allegation of perjury further.

11 Q. And did Mr. Thornton take his seat after the first
12 public hearing meeting? You said there were two?

13 A. No, yes. No, he didn't. Somewhere in there
14 towards the end of the Bopp public hearing he continued to
15 go on with his berating of the mayor, and the mayor asked
16 him to take his seat on several occasions. He didn't do
17 that --

18 Q. No, Mr. Brown, are you confusing it at all with the
19 St. Agnes and the Bopp Chapel?

20 A. You know, I could be. They were back to back. I
21 don't know if it was --

22 Q. Okay.

23 A. -- the end of the Bopp Chapel and the beginning of
24 the St. Agnes, but it was in that -- in that time frame.

25 Q. Okay. So at some point the mayor told Mr. Thornton

1 to take his seat; is that correct?

2 A. Um-hum, it was -- that's correct.

3 Q. And did he take his seat?

4 A. No, he did not. He fell to the floor.

5 Q. All right. And at this point was there a recess
6 called?

7 A. Yes, the mayor called a recess. As a matter of
8 fact asked -- had asked a police officer to escort
9 Mr. Thornton out of the council chamber, because he had not
10 taken his seat. And that's when he fell to the floor. And
11 the officer mentioned to the mayor that it might be best to
12 call a recess until he could be dealt with.

13 Q. And what did you do during the recess?

14 A. Basically just killed time, stayed out of the
15 police officer's way, and waited to get back to the
16 public's business.

17 Q. Okay.

18 MS. BARTH: That's all the questions I
19 have for this witness, but I reserve the right to recall
20 him.

21 THE COURT: Thank you. Cross?

22 MR. THORNTON: Yes, Your Honor, thank
23 you.

24

25

1 Q. How often does the City of Kirkwood hold public
2 council meetings?

3 A. We typically have public council meetings on the
4 first and third Thursdays of the month.

5 Q. And what duty do you perform as mayor during those
6 meetings?

7 A. During the meetings I consider my job as running a
8 public meeting, so that the business of this community can
9 be served.

10 Q. And do you recall the events that occurred at the
11 May 18th, 2006, council meeting?

12 A. Yes, I do.

13 Q. What time was the meeting called to order?

14 A. 7:00 or one or two minutes after 7:00 p.m. in the
15 evening.

16 Q. And were there any public hearings held?

17 A. There were two that evening.

18 Q. And what was the first public hearing, if you
19 remember?

20 A. The first public hearing was a special-use permit
21 for the proposal to expand the parking lot, along with
22 landscaping, at Bopp Funeral Chapel.

23 Q. Okay. And how long has Bopp Chapel been in the
24 community?

25 A. One of our longest continuous serving services,

1 over one hundred years.

2 Q. Okay. And after Bopp Chapel's presentation did you
3 open the floor for citizen comments?

4 A. Yes. Typically what we do is we have the
5 petitioner speak, and I ask the council for any preliminary
6 questions, followed by opening session for anyone in the
7 audience. And then we close it with final comments of the
8 city council.

9 Q. Okay. And did any citizens come forward to speak?

10 A. Yes, Mr. Thornton.

11 Q. And he's the Defendant today?

12 A. Yes, he is.

13 Q. Based on your recollection did Mr. Thornton have
14 any display material with him?

15 A. Yes, he did.

16 Q. Okay. And did he place material facing the council
17 meeting?

18 A. Yes, it was -- yes. Yes, he did.

19 Q. And can you describe the display for the Court?

20 A. It was a -- I'd say rather large picture of a
21 donkey.

22 Q. Okay. And has Mr. Thornton used images of donkeys
23 at council meetings before?

24 A. He has.

25 Q. And what if anything did Mr. Thornton say next?

1 A. He asked for a copy of the Negro version of the
2 procedures.

3 Q. And how did you respond to Mr. Thornton?

4 A. I asked him if he had any specific questions for
5 the applicant.

6 Q. And then what did Mr. Thornton say or do?

7 A. Mr. Thornton asked the applicant if he was planning
8 on using asphalt paving equipment, and planned on indeed
9 laying asphalt. And the petitioner replied, yes, he was.

10 Q. And what did Mr. Thornton respond?

11 A. He cautioned the applicant to be careful in
12 Kirkwood because of the plantation mentality of Kirkwood,
13 that because of the use of asphalt equipment and the laying
14 of asphalt you can be arrested and fined.

15 Q. And then what happened?

16 A. Mr. Thornton slowly removed his donkey sign and sat
17 down, as I recall.

18 Q. Was there another public hearing on the 18th?

19 A. The second public hearing was another one of our
20 older service businesses in Kirkwood, the St. Agnes Home in
21 Kirkwood. And they were plan -- they were petitioning to
22 add to their facility, and also a driveway.

23 Q. So both the Bopp Chapel and St. Agnes were there
24 trying to conduct business and get something done that
25 night; is that correct?

1 A. I think that's -- I think that's important because
2 these public hearings are serious matters. And
3 petitioner's comment after great expense already with
4 designs and architectural designs, and so coming to the
5 council a lot of expense and a lot of professional work has
6 already been done to get to this point.

7 And it's -- I call it serious business of people
8 who want to do business and spend money in Kirkwood to
9 make, in this case, both cases, their businesses more
10 effective for their -- for their customers.

11 They're both long-time businesses in Kirkwood.

12 Q. Okay. And after St. Agnes's presentation did you
13 open the floor for public comments?

14 A. I did.

15 Q. And did any citizen come forward to make a comment?

16 A. Mr. Thornton did.

17 Q. And what did Mr. Thornton say or do?

18 A. He mentioned that this community has -- is
19 plantation -- is plantation like, and is -- the government
20 is corrupt, and the mayor -- the council and mayor,
21 particularly the mayor, has jackass-like qualities.

22 Q. And did you respond to Mr. Thornton?

23 A. I asked Mr. Thornton to specifically address any
24 questions to the applicant.

25 Q. Okay. And then what did Mr. Thornton say or do?

1 A. In effect repeated those points a second time. And
2 that was the points of plantation mentality, corrupt
3 government, and jackass-like qualities, particularly the
4 mayor.

5 Q. Okay. And then what did you do when he continued
6 on with his antics?

7 A. For the third time I asked him for any specific
8 questions that he had for the applicant.

9 Q. Okay.

10 A. And the responses were similar.

11 Q. Okay. And at this point --

12 A. There were no questions directed to the applicant.

13 Q. Right. And at this point was Mr. Thornton
14 disrupting the council meeting?

15 A. Yes, indeed he was.

16 Q. Okay. What did you then do?

17 A. I motioned to Officer Ballman to step forward
18 because I wanted Mr. Thornton to take a seat. It was
19 obvious that there was disruption, and so I motioned to
20 officer Ballman to do that.

21 Q. Okay. And at this point Mr. Thornton was not under
22 arrest, correct?

23 A. No, he was not.

24 Q. Okay. Did Officer Ballman approach Mr. Thornton?

25 A. He did -- he did indeed approach Mr. Thornton.

1 Q. And then what happened?

2 A. Mr. Thornton at that point sat down on the floor.

3 Q. And where did he sit down?

4 A. Right near the microphone in the middle of the
5 floor.

6 Q. In the middle of the council chambers?

7 A. Absolutely in the middle of the council chambers.

8 Q. Okay. And did some discourse continue with Officer
9 Ballman and Mr. Thornton afterwards?

10 A. Yes. Mr. -- Officer Ballman asked me if I would
11 call a recess.

12 Q. Okay.

13 A. And I did that. And then there was Officer Ballman
14 asking the Defendant to stand -- or to -- or leave the
15 council chambers.

16 Q. Okay. And so when you called a recess did you
17 leave the council chambers or did you stay at the --

18 A. Neither did I leave the council chambers nor anyone
19 on the city council --

20 Q. Okay.

21 A. -- leave.

22 MS. BARTH: That's all the questions I
23 have right now, and reserve the right to recall him in
24 rebuttal.

25 THE COURT: Cross?

1 a person had a question that they did not understand it?

2 A. Well, I -- I -- I'm -- I'm not certain how I should
3 answer that or how to answer it. I'm not sure but -- how
4 to answer that question. I mean, the protocol is here, it
5 was worked on with the city attorney and the staff, and I
6 suppose if there was great confusion on someone's part we
7 would do our best to help out.

8 Q. Are you stating that because it's, you say, common
9 sense, common knowledge, the protocol's exactly the same
10 for public comment as is for public hearing?

11 A. There is a sig -- there is a difference in that
12 under the -- under the public comment, as we have for years
13 in Kirkwood, we have -- we have had a three-minute limit on
14 public comments.

15 But where we have public hearings, we expect anyone
16 to speak directly on the issue either in favor or against,
17 or ask specific questions of the petitioner. That's the
18 big difference.

19 Q. Okay. But you would explain that?

20 A. I suppose I would, yeah.

21 Q. Okay. Now, is there any time limit on the public
22 hearing portion of this, during this session?

23 A. Oh, I see where you're going. There is no -- there
24 is no time limit on asking specific questions to applicants
25 who are serious about doing business in Kirkwood.

1 Q. Okay. So if a person had an opening statement,
2 would that be opening statement concerning an issue of what
3 you just mentioned of the parking lot or asphalt equipment?

4 MS. BARTH: Objection, Your Honor, this
5 line of questioning is irrelevant.

6 MR. THORNTON: Well, it's directly with
7 the asphalt statement that he made on the parking lot.

8 THE COURT: I'll overrule, you can finish
9 the question.

10 MR. THORNTON: Okay.

11 A. What is the question?

12 Q. (By Mr. Thornton) If an individual has been
13 allowed to speak, and they start to ask with the opening
14 statement, a question based on facts that they had to prove
15 the exact situation that the petitioner is requesting; I.e.
16 the parking lot. If they have an opening statement before
17 they go in directly to the question, would you allow that
18 brief opening statement if it's maybe five or ten seconds?

19 A. Let me give you an example of that evening. The
20 first public hearing you asked your question of the
21 applicant about using asphalt laying equipment, and
22 asphalt. Did you plan to use that on this project. Fair
23 question. The answer was yes.

24 And then you responded that Kirkwood with its
25 plantation mentalities, be careful because you could be

1 was during May 18 did you, any other city council members,
2 attempt to ban me from speaking at the meeting?

3 A. No, no.

4 Q. Okay. Thank you. Do you understand why I'm coming
5 to these meetings?

6 MS. BARTH: Objection, vague and not
7 within his knowledge.

8 THE COURT: I think it calls for
9 speculation. I'll sustain the objection.

10 Q. (By Mr. Thornton) On May 18, because of two public
11 hearings -- well, first I'd like -- I'm sorry, my Exhibit
12 1. Question now: Are you familiar with this document
13 that's my Exhibit 1 presented to you, for you?

14 A. I recall you handing something to us, I didn't
15 recall reading it.

16 Q. Okay. Now, this is the reason for public hearing,
17 public comment sections, is for the city and council to
18 attempt to hear or understand what the individual is
19 speaking of?

20 A. Well, sure, it's a period of time -- I'll answer it
21 two parts. It's a period of time under a public hearing to
22 get to the critical points of what the application is
23 about, and allow citizens or anyone else, including the
24 council, to ask questions of the petitioner to understand
25 as much as possible what the application is about.

1 Q. So if the word jackass, jackass, jackass was used
2 and you -- you would have no issue with it because you
3 have -- it has no other context to be related to?

4 A. I'm not going to response to that.

5 MR. THORNTON: Your Honor.

6 THE COURT: I think he answered the
7 question. I think we need to move along. I also think it
8 invades the province of this Court, okay?

9 I'm going to make a determination whether or not
10 this is a violation of the statute.

11 MR. THORNTON: Okay.

12 THE COURT: Based upon the words that
13 were used in the testimony at the conclusion of the trial.

14 Q. (By Mr. Thornton) During the public hearing
15 sessions when they -- speakers from the audience is allowed
16 to speak, are they allowed to just ask a question in
17 reference to the issue at hand or are they allowed to make
18 a comment and/or question related to the issue at hand?

19 A. Typically what we hope for in a public hearing is
20 specific questions. If there's an added-on comment related
21 to that question, that seems to be okay. But it's focused
22 on getting to the issues of what the application is about.

23 That's what -- that's what the intent of the public
24 hearing is. Either by council members or the public in
25 general.

1 Q. And the issue at hand on May 18th was a parking
2 lot?

3 A. Which public hearing?

4 Q. On May 18th, the issue on the parking lot issue
5 where asphalt paving was to be used.

6 A. Are you talking about Bopp?

7 Q. Yes. Was that the one with the parking lot?

8 THE COURT: I'm sorry, just to clarify
9 and to move things along. I'm going to ask you direct, be
10 more specific or rephrase your question actually.

11 MR. THORNTON: Okay.

12 THE COURT: Both public hearings did have
13 parking lot as part of -- as I understand the prior
14 testimony from this individual, as part of their plans. So
15 you need to be a little more specific if you're asking
16 about one versus the other.

17 Q. (By Mr. Thornton) Then I will stopped from
18 speaking the second public hearing relating to the asphalt
19 equipment, was I allowed to finish my question that was
20 asked before I was stopped and arrested?

21 A. I asked you three times to direct a question to the
22 applicant, and you never did.

23 Q. Okay. Did I ask you during that time, yes, if
24 you'd let me finish my presentation.

25 A. You asked about finishing a presentation, yes, but

1 you never got to it. You just kept repeating three times
2 the issue of plantation mentality, corrupt city council,
3 and jackass-like qualities.

4 Q. When I make the statement did you stop me or did
5 you allow me to finish my final question?

6 A. I don't know what finish means in this regard, but
7 I do know that three times I asked you to please ask a
8 specific question.

9 Q. So my question again: A statement would be allowed
10 based on the issue if that applicant is called up to speak?

11 A. I don't understand your question. All I know is
12 that three times I asked you to specifically address the
13 applicant with a question.

14 Q. Okay. But could I have also have made a comment?

15 A. What we typically do is ask either council members
16 or the general public to specifically ask clarifying
17 questions about an application in a public hearing.

18 Q. My question again --

19 MS. BARTH: Objection, asked and answer.

20 MR. THORNTON: The comment -- the comment
21 is different from a question, Your Honor.

22 THE COURT: I think it's been asked and
23 answered.

24 MR. THORNTON: Okay.

25 THE COURT: And I have received into